IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 18725 of 2007(D)

PETITIONER:

ST.PETER'S & ST. PAULS ORTHODOX SYRIAN
CHURCH, KOLENCHERRY, ERNAKULAM DISTRICT,
REPRESENTED BY ITS VICAR FR.JACOB KURIAN.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS:
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1. THE DISTRICT EDUCATIONAL OFFICER,
ALUVA.

*2. PAULOSE P. KUNNATHU, AGED 69
S/O. PATHROSE, KUNNATHU HOUSE
KINGINIMATTOM KARA
AIKKARANADU SOUTH VILLAGE, KUNNATHUNADU TALUK.

*3. FR. VARGHESE EDUMARY
S/O. PAILY, AGED 58
VICAR, ST. PETERS AND ST. PAUL'S SYRIAN ORTHODOX CHURCH
KOLENCHERRY KARA
AIKKARANADU SOUTH VILLAGE.

ADDL. RESPONDENTS 2 AND 3 ARE IMPLEADED AS PER ORDER DT.13.7.07 IN IA NO.9638/07.

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. BASHEER, J.

W.P.(C). NO. 18725 OF 2007

Dated this the 13th day of July, 2007

J U D G M E N T

Petitioner, which is stated to be a public trust and a constituent of Malankara Church, has filed this writ petition praying for issuance of a writ of mandamus or such other appropriate writ or direction to the respondent to take a decision on Ext.P5 request made by it for approval of election of manager and members to the Board of the School by the Parish Assembly**.**

2. In the counter affidavit filed by the respondent it is averred that a decision on Ext.P5 has not so far been taken since a rival faction has raised some objection. In fact additional respondents 2 & 3, who have got themselves impleaded in the writ petition, have raised a contention that Fr. Jacob Kurian, who has filed this writ petition representing the Church, is not the vicar. Additional respondent No.3 is the vicar of the Church. It is further contended by respondents 2 & 3 that respondent No.2 was elected as manager in the Annual General Meeting held on March 11, 2007. Thus obviously there is a rival faction in the Church. According to the rival faction, the members elected by it are entitled to hold office. Anyhow, I do not

propose to go into those areas of conflict in view of the limited prayer made by learned counsel for the parties at the Bar.

3. Learned counsel on either side submit that it may be appropriate if the respondent is directed to take a decision in the matter after affording sufficient opportunity to the authorised representatives of the two groups, expeditiously.

In the above facts and circumstances, the writ petition is disposed of with a direction to the respondent to consider and pass orders on Ext.P5 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment. Respondent shall ensure that petitioner, additional respondents 2 & 3 and all others, who are likely to be interested in the affairs of the petitioner trust, are afforded sufficient opportunity to be heard before any decision is taken. Respondent No.1 shall also take up Ext.R2(a) and dispose it of along with Ext.P5, when the mater is being heard.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007